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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,297	02/18/2004	Brian K. Renner	3279	4821

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OVERLAND PARK, KS 66211

EXAMINER

RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,297

Applicant(s)

RENNER, BRIAN K.

Examiner

John Rivell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/18/04 (application).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>02182004</u> . | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olive (U. S. Pat. No. 3,967,324 cited by applicant).

The patent to Olive, in figures 1-2, discloses a "plumbing trap device adapted for connecting a (vertical) drain tail piece to a (horizontal) drain outlet, said device comprising: a unitary tubular element generally described as 10) having a first (e.g. horizontal) end and an opposing (e.g. vertical) second end, said tubular element comprising a trap section (18) intermediate to said ends, a first annular corrugated section (is shown at ribs 38 and channels 40)... each of said annular corrugated sections comprising a plurality of folds (e.g. 38, 40), said first annular corrugated section (illustrated) disposed between said first (horizontal) end and said trap section (18)" as recited in claim 1.

Thus the patent to Olive discloses all the claimed features with the exception of having a "second annular corrugated section disposed between said trap section and said second end".

The patent to Olive discloses that it is known in the art to employ a corrugated section, as at the section formed by ribs 38 and channels 40, mounted on a drain trap, for the purpose of accommodating misalignment of the other end of the trap.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Olive an additional corrugated section at the vertical inlet section of the trap for the purpose of accommodating misalignment of the other end (e.g. the horizontal end) of the trap as recognized by Olive. Here the

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modification merely amounts to duplication of elements, specifically the end corrugated section between the "U" trap section 18 and the opposite ends at the inlet and outlet of the trap device. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). In this regard, no new and/or unexpected results is obtained as one would necessarily expect the now corrugated inlet section to accommodate misaligned horizontal outlet pipes. Such a modification merely serve to obtain the expected results obtained at the disclosed horizontal corrugated section for the vertical inlet section.

Regarding claim 2, in Olive as modified "each of said annular corrugated sections are flexible" given that the disclosure is of a flexible drain trap and the corrugations permit bending.

Regarding claim 3, in Olive as modified, "each of said annular corrugated sections are longitudinally compressible and extendible" by reason that the are flexible enough to permit bending. Thus, when bent, the outer corrugated section extends whereas the inner corrugated section contracts. As such it would be unreasonable to conclude that any one of the corrugated sections is not "longitudinally compressible and extendable".

Regarding claim 4, in Olive as modified, "said trap section comprises a U-shaped portion (18) of said tubular element" as recited.

Regarding claim 5, in Olive as modified, "said trap section comprises a U-shaped tubular structure (18) having a pair of spaced legs (20, 22) extending vertically upwardly from a generally horizontal lower section (at the lower bend of section 180" as recited.

Regarding claim 5, in Olive, as modified, "said trap section comprises a vessel having two transversely opposed openings (within portions 20, 22) in communication

with an upper portion (at the inlet and outlet) of said vessel, said openings separated from one another by a structure (the separating space between legs 20, 22) dividing said upper portion into chambers connected to one another through a gap (at the lower bend of the section 18) in said structure in a lower portion of said vessel" as recited.

Regarding claim 6, in Olive, "said tubular element comprises a plastic tube" as recited.

Regarding claim 8, as disclosed at column 2, lines 20-23, "said tubular element comprises polyvinyl chloride" as recited.


The remaining limitations of the remaining claims merely recite the equivalent structural components in language of differing scope not distinguishable from Olive as noted above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (571) 272-4918. The examiner can normally be reached on Mon.-Thur, from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (571) 272-4930. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Rivell
Primary Examiner
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